

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE: AFTERMARKET FILTERS
ANTITRUST LITIGATION**

**Master Docket No. 08-cv-4883
MDL Docket No. 1957**

**This Document Relates To:
All Purchaser Actions**

Honorable Robert W. Gettleman

**MOTION FOR LEAVE TO FILE REPLY TO DEFENDANTS' RESPONSE TO DIRECT
PURCHASER AND GAS RETAILER PLAINTIFFS' PROPOSED CLASS
SETTLEMENT NOTICES**

Direct Purchaser Plaintiffs and Gas Retailers' Class Plaintiffs ("Plaintiffs"), through their undersigned counsel, hereby move this Court for leave to file a Reply to Defendants' Response to Direct Purchaser and Gas Retailer Plaintiffs' Proposed Class Settlement Notice (Dkt. #841) ("Motion"). In support of their Motion, Plaintiffs state as follows:

1. On October 11, 2011, the Direct Purchaser Plaintiffs, Indirect Purchaser Plaintiffs, and Gas Retailers' Class Plaintiffs filed their Amended Omnibus Motion ("Omnibus Motion") for preliminary approval of partial settlements with Defendants Baldwin Filters, Inc., Cummins Filtration, Inc., and Donaldson Company, Inc. (collectively, "Settling Defendants") (Dkt. #833).

2. At a status conference held on October 12, 2011, the Court requested additional briefing on the Omnibus Motion from Plaintiffs (including the Indirect Purchaser Plaintiffs) and Settling Defendants relating to the following matters: the propriety of partial settlements; the use of funds from the partial settlements to pay case expenses; and the production of customer lists by non-settling Defendants for notice purposes. The Court also permitted Defendants ArvinMeritor, Inc., Purolator Products NA, LLC, Purolator Products Company, LLC, Champion

Laboratories, Inc., Wix Filtration Corp. LLC, Affinia Group, Inc. and Honeywell International Inc. (collectively, “Non-Settling Defendants”) to submit comments regarding the content of the Plaintiffs’ proposed mailed notices (attached as Exhibits A to the Direct Purchaser Plaintiffs and Gas Retailers’ Class Plaintiffs’ Supplemental Memoranda in support of the Omnibus Motion (Dkt. #835 and #836, respectively)).

3. On October 26, 2011, Plaintiffs (Dkt. #842), Settling Defendants (Dkt. #843) and Non-Settling Defendants (Dkt. #841) filed additional briefing with the Court.

4. In their Response, Non-Settling Defendants proposed substantive changes to Plaintiffs’ proposed mailed notice to class members.

5. For the reasons stated in Plaintiffs’ Supplemental Memorandum in support of the Omnibus Motion (Dkt. #842, p. 5 n.3), Non-Settling Defendants cannot challenge these settlements unless they have standing, which they do not because they have failed to demonstrate “plain legal prejudice” as required in this Circuit. Indeed, Non-Settling Defendants do not even attempt to meet the plain legal prejudice standard in their Response, which was silent on the issue. Thus, Non-Settling Defendants have no legal basis to challenge the settlement agreements, including altering the mailed notice forms.

6. Notwithstanding Non-Settling Defendants’ lack of standing, Plaintiffs propose to add some additional language to the proposed mailed notices. *See* Exh. A (Direct Purchaser Plaintiffs’ mailed notice form showing proposed new language); Exh. B (Gas Retailers’ Class Plaintiffs’ mailed notice form showing proposed new language). This additional language reflects the general substance of Non-Settling Defendants’ proposed edits.

7. Settling Defendants have no objection to the additional language proposed herein.

WHEREFORE, Plaintiffs respectfully request leave to file the revised proposed mailed notices as contained within Exhibits A and B to this Motion.

Dated: November 4, 2011

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